

**IN UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SSGT JASON A. ADKINS, USAF,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. Act. No. 04-1453-JJF
	)	
DONALD H. RUMSFELD, Sec. of Defense;	)	
JAMES G. ROCHE, Secretary of the Air Force;	)	
GEN. JOHN W. HANDY, Commander Air	)	
Mobility Command, COL. JOHN I. PRAY, JR.,	)	
436th Air Wing Commander, in their official	)	
capacities,	)	
	)	
Defendants.	)	

**[JOINT PROPOSED] RULE 16 SCHEDULING ORDER**

The parties, having satisfied their obligations under Fed. R. Civ. P. 26(f), **IT IS**

**HEREBY ORDERED:**

**1. Amended Complaint and Answer.** Plaintiff has filed the Second Amended Complaint pursuant to the Court's August 24, 2006 opinion. Defendants shall file an answer or other response on or before September 22, 2006.

**2. Pre Discovery Disclosures.** Within fourteen (14) days of the Court's decision on defendants' motion to reconsider the parties will exchange the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

**2. Discovery.**

(a) The discovery period shall run for 150 days, unless otherwise agreed to by the parties or ordered by the court, starting with the day following the exchange of information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

(b) The exchange and completion of interrogatories, requests for admission and requests for document production shall be commenced so as to be completed 120 days from the start of the discovery period.

(c) The maximum number of interrogatories that can be served by each party to any other party shall be thirty (30), unless otherwise agreed in writing by the parties or otherwise ordered by the Court.

(d) The maximum number of requests for admission that can be served by each party to any other party by shall be thirty (30), unless otherwise agreed in writing by the parties or otherwise ordered by the Court.

(e) The maximum number of fact deposition that can be taken are ten (10) depositions by plaintiffs and five (5) depositions by defendants, unless otherwise agreed in writing by the parties or otherwise ordered by the Court. Deposition of fact witnesses shall begin no earlier than 60 days from the start of the discovery period.

(f) Expert discovery, if any, will commence 120 days from the start of the discovery period.

(g) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2), if any, will be served to the parties 100 days from the start of the discovery period. Response or rebuttal reports will be served 130 days from the start of the discovery period.

(h) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

(i) Interim discovery deadlines covered by this Order can be adjusted by mutual agreement of the parties so long as the overall time period for discovery is not increased.

### **3. Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov), that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

(f) Prior to filing any motion, the parties shall confer in an effort to resolve any such dispute.

**4. Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on

or before the tenth (10) day after the close of discovery. Defendants reserve the right to oppose any such motion.

**5. Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief within thirty (30) days after the close of the discovery period. Responses to case dispositive motions shall be due twenty (20) calendar days from the filing of the motion with court. No case dispositive motion may be filed more than ten (10) days from the dates specified in the first sentence of this paragraph without leave of the Court.

**6. Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency and must courtesy copy the other party.

**9. Pretrial Conference and Trial.** After ruling on dispositive motions and if still needed, the Court will schedule a Pretrial Conference. At this Pretrial Conference, the Court will establish a schedule for pre-trial submissions and the trial itself. The parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JOSEPH J. FARNAN, JR.  
United States District Judge

**CERTIFICATE OF SERVICE**

I, Stephen J. Neuberger, being a member of the bar of this Court do hereby certify that on September 13, 2006, I electronically filed this **Pleading** with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Samuel Kaplan  
U.S. Department of Justice  
Samuel.Kaplan@usdoj.gov

/s/ Stephen J. Neuberger  
**STEPHEN J. NEUBERGER, ESQ.**